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9 Passages Silver Strand, LLC and
10 Grasshopper House, LLC
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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14

15 **Grasshopper House, LLC**, a
16 California limited liability company
17 doing business as Passages Malibu,
18 **Passages Silver Strand, LLC**, a
19 California limited liability company,

20 Plaintiffs,

21 vs.

22 **Central Recovery Treatment,**
23 **LLC**, a Nevada limited liability
24 company, doing business as Las
25 Vegas Recovery Center,

26 Defendant.
27
28

CASE NO. CV-09-9352 DSF (PJWx)

**PLAINTIFFS' RESPONSE TO
JANUARY 20, 2010 ORDER RE:
NOTICE TO THE PATENT AND
TRADEMARK OFFICE**

Hon. Dale S. Fischer

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2 Plaintiffs Grasshopper House, LLC (“Grasshopper House”) and Passages
3 Silver Strand, LLC (“Passages”) (collectively “Plaintiffs”) hereby submit this Brief
4 in response to the Court’s January 20, 2010 Order requesting that Plaintiffs comply
5 with a notice requirement pursuant to Local Rule 3-1, which can be satisfied by
6 filing Form AO 120 with the Patent and Trademark Office (“PTO”).

7 This Court has two separate sources of authority for jurisdiction over
8 Plaintiffs’ trademark and infringement and unfair competition claims against
9 Defendant Central Recovery Treatment, LLC (hereinafter “Defendant” or “Central
10 Recovery”). First, this Court has diversity jurisdiction over Plaintiff’s civil action
11 pursuant to 28 U.S.C. § 1332. Second, this Court has federal question subject
12 matter jurisdiction over Plaintiffs’ civil action pursuant to 28 U.S.C. §§ 1331 and
13 1338. Local Rule 3-1 specifically addresses cases brought under 28 U.S.C. § 1338.

14 Local Rule 3-1 provides, in pertinent part, that:

15 In all cases where jurisdiction is invoked in whole or in part under 28
16 U.S.C. § 1338 (regarding patents, plant variety protection, copyrights
17 and trademarks), the Clerk shall also be provided at the time of filing
18 with the original and two copies of the required notice to the Patent
19 and Trademark Office in patent, plant variety protection and
trademark matters and the original and four copies of the required
notice in copyright matters.

20 However, as noted on Form AO 120, such notice is only required for compliance
21 with 15 U.S.C. § 1116. Notice to the PTO is required only for those cases
22 involving marks registered under the provisions of the Lanham Act. *See* 15 U.S.C.
23 § 1116(c). The trademarks in dispute do not fall under this category as they have
24 not been registered with the PTO. Thus, providing notice to the PTO would be
25 inappropriate. While Plaintiffs’ marks are registered with the California Secretary
26 of State, Plaintiffs are unaware of any notice requirement for the California
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1 Secretary of State. As such, the notice requirements described by Local Rule 3-1
2 and 15 U.S.C. § 1116 are not applicable.

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4 Respectfully submitted,
5 TROJAN LAW OFFICES
6 by

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8 Dated: January 20, 2010

/s/ R. Joseph Trojan
9 R. Joseph Trojan

10 Attorneys for Plaintiffs
11 Passages Silver Strand, LLC and
12 Grasshopper House, LLC.

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